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09/283,561

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JAMES R. H. CHALLENGER

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EXAMINER

BLACKWELL, JAMES H

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JAMES R.H. CHALLENGER, CAMERON FERSTAT, ARUN K.  
IYENGAR, PAUL REED and KAREN A. WITTING

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Application 09/283,561  
Technology Center 2100  
Date Mailed: July 9, 2008

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This Image File Wrapper (IFW) application was electronically received at the Board of Patent Appeals and Interferences on March 10, 2008. A review has determined that the application is not ready for docketing as an appeal.

Accordingly, this application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below:

Appellant filed an Appeal Brief which was received by the USPTO on April 11, 2006. The content listed under the heading “Summary of Claimed Subject Matter” does not provide a concise explanation of the subject matter defined in each of the independent claims involved in the appeal. *See* 37 C.F.R. § 41.37(c)(1)(v) 2006.

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Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

The Brief fails to identify each independent claim involved in the appeal by not listing claim 42 and 75.

Also, under the content listed "Status of Amendments" at least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (*See* 37 C.F.R. § 41.37(c)(1)(iv)).

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on April 11, 2006 defective;
- 2) notify appellants to file a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v);
- 3) notify appellants to file a paper providing a correct status of amendments as required by 37 C.F.R. § 41.37 (c)(1)(iv).
- 4) consider the paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v).
- 5) consider the paper providing the status of amendments as required by 37 C.F.R. § 41.37 (c)(1)(iv) and:
- 6) for such further action as may be appropriate.

Application 09/283,561

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: /Krista Zele/

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